

The Honorable Marsha J. Pechman

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AT SEATTLE
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WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSHUA SUPNICK, et al., Individually and On)
Behalf of All Others Similarly Situated,)

Plaintiffs,)

vs.)

AMAZON.COM, INC. and ALEXA)
INTERNET,)

Defendants.)

AND RELATED ACTIONS.)

No. C-00-0221-P
(Consolidated)

FINAL ORDER AND JUDGMENT



CV 00 00221 #00000117

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1 This matter came before the Court for hearing pursuant to the Order of this Court filed April
2 20, 2001 ("Preliminary Approval Order"), on the application of the parties for approval of the
3 settlement set forth in the Settlement Agreement, dated April 16, 2001 (the "Agreement").

4 Due and adequate notice having been given to the Class as required in the Preliminary
5 Approval Order, and the Court having considered all papers filed and proceedings had herein and
6 otherwise being fully informed in the premises and good cause appearing therefor, IT IS HEREBY
7 ORDERED, ADJUDGED AND DECREED that:

8 1. This Final Order and Judgment ("Judgment") incorporates by reference the definitions
9 in the Agreement, and all terms used herein shall have the same meanings as set forth in the
10 Agreement.

11 2. This Court has jurisdiction over the subject matter of the Actions and over all parties
12 to the Actions, including all members of the Class.

13 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and by Order dated
14 May 19, 2000 as clarified by the Preliminary Approval Order, this Court has certified the Class,
15 defined as all persons throughout the United States who have installed or used the Alexa Web
16 Browsing Software, regardless of whether supplied by any other entity or identified as having been
17 produced by Alexa, other than versions 5.0 and later. Excluded from the Class are: (1) Defendants,
18 or any entity in which either of the Defendants have a controlling interest, and their respective legal
19 representatives, officers, directors, employees, assigns and successors; (2) the judge to whom this
20 case is assigned and any member of the judge's staff and immediate family; any person who, in
21 accordance with the terms of the Agreement, properly executes and submits a timely request for
22 exclusion from the Class.

23 4. The Court finds the Parties have complied with the notice requirements as set forth
24 in the Preliminary Approval Order, and reaffirms that the notice given to the Class was the best
25 notice practicable under the circumstances of these proceedings for both certification of the class and
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1 the proposed settlement as set forth in the Agreement to all persons entitled to such notice, and that
2 said notice fully satisfies the requirements of Federal Rules of Civil Procedure 23 and of due process.

3 5. Pursuant to Federal Rules of Civil Procedure Rule 23(e), this Court hereby finally
4 approves the settlement set forth in the Agreement and finds that said settlement is, in all respects,
5 fair, just, reasonable and adequate as to each of the Parties, and in the best interests of the Class. The
6 Parties are hereby directed to act and perform in accordance with the terms of the Agreement.

7 6. Except as to any individual claim of those Persons who have validly and timely
8 requested exclusion from the Class, the Actions and all claims contained therein, as well as all of the
9 Settled Claims, are dismissed with prejudice as to the Class Representatives and the Class Members,
10 and as against the Releasees. All members of the Class who have not filed timely and valid requests
11 for exclusions are hereby forever barred and enjoined from prosecuting any Settled Claims against
12 any of the Releasees.

13 7. Upon this Judgment becoming final, each of the Releasing Parties, regardless whether
14 any Class Member executes and delivers a written release, shall by operation of this Judgment be
15 deemed to release and forever discharge the Releasees from any and all Settled Claims.

16 8. Upon this Judgment becoming final, each of the Releasees shall by operation of this
17 Judgment be deemed to have fully, finally and forever released, relinquished and discharged each
18 and all of the Releasing Parties and Class Counsel from all claims, known and unknown, arising out
19 of, relating to, or in connection with the institution, prosecution, assertion, settlement or resolution
20 of both the Actions and the Settled Claims.

21 9. With respect to any of the Settled Claims or the claims described in ¶8 herein, upon
22 this Judgment becoming final all Class Members and each of the Releasees shall by operation of this
23 Judgment be deemed to have also expressly waived and relinquished, to the fullest extent permitted
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1 by law, the provisions, rights, and benefits of §1542 of the California Civil Code,¹ as well as any and
 2 all provisions, rights and benefits conferred by any law of any state or territory of the United States,
 3 or principle of common law, which is similar, comparable or equivalent to §1542.

4 10. Neither the Agreement nor the terms of the settlement contained therein, nor any act
 5 performed or document executed pursuant to or in furtherance of the Agreement or the settlement:
 6 (1) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any
 7 Settled Claim, or of any wrongdoing or liability of the Defendants, or (2) is or may be deemed to be
 8 or may be used as an admission of, or evidence of, any fault or omission of any of the Defendants
 9 in any civil, criminal or administrative proceeding in any court, administrative agency or other
 10 tribunal. Defendants may file the Agreement and/or the Judgment in any other action that may be
 11 brought against them involving similar facts and circumstances in order to support a defense or
 12 counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement,
 13 judgment bar or reduction or any theory of claim preclusion or issue preclusion or similar defense
 14 or counterclaim.

15 11. Pursuant to the terms of the Agreement, the Court hereby orders that any information
 16 relating to any submitted Claim is to be treated as confidential. Defendants may, however, disclose
 17 such confidential information to their insurers and counsel for such insurers or any Releasee or
 18 counsel for such Releasee, provided that such disclosure is subject to appropriate confidentiality
 19 protections as approved by this Court.

20 12. In accordance with the Agreement, Class Counsel are collectively to be paid the sum
 21 of \$1,900,000 plus accrued interest as provided for in ¶¶5.1(b) and 12 of the Agreement, for their
 22 reasonable fees and expenses incurred in prosecuting the Actions. The Court also approves the
 23 payment of \$2,000 to each of the Class Representatives for their role in representing the interests of
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25 ¹ Section 1542 of the California Civil Code provides: "A general release does not extend to
 26 claims which the creditor does not know or suspect to exist in his favor at the time of executing the
 release, which if known by him must have materially affected his settlement with the debtor."


1 the Class. Such amounts are to be distributed both to and among the Class Representatives and
2 Class Counsel in the manner provided for in the Agreement.

3 13. Without affecting the finality of this Judgment in any way, this Court hereby retains
4 continuing jurisdiction over construing, enforcing, implementing and administering the terms of the
5 Agreement and to resolve any disputes arising thereunder.

6 14. In the event that the settlement embodied in the Agreement does not become effective
7 in accordance with the terms of the Agreement, then this Judgment shall be rendered null and void
8 to the extent provided by and in accordance with the terms of the Agreement and shall be vacated.
9 In such event, all releases to be provided in connection herewith shall be null and void to the extent
10 provided by and in accordance with the terms of the Agreement, and all claims information
11 submitted by Class Members to defendants shall be destroyed unless otherwise ordered by the Court.

12 IT IS SO ORDERED.

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14 Dated: July 27, 2001

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17 THE HONORABLE MARSHA J. PECHMAN
18 UNITED STATES DISTRICT JUDGE
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